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13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN FRANCISCO DIVISION

16
17 GOOGLE LLC,

18 Plaintiff,

19 vs.

20 SONOS, INC.,

21 Defendant.
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CASE NO. 3:20-cv-06754-WHA

Related to CASE NO. 3:21-cv-07559-WHA

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF ITS MOTION FOR
SUMMARY JUDGMENT**

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google LLC (“Google”) hereby requests to file under seal portions of its Motion for Summary Judgment (“Motion”). Specifically, Google requests an order granting leave to file under seal the portions of the documents listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Google’s Motion	Portions highlighted in yellow and green and outlined in red boxes	Google and Sonos
Exhibit 1 (January 23, 2023 Reply Report of Dr. Dan Schonfeld Regarding U.S. Patent No. 10,848,885 and U.S. Patent No. 10,469,966)	Portions outlined in red boxes	Google and Sonos
Exhibit 2 (January 23, 2023 Reply Expert Report of Dr. Kevin C. Almeroth)	Portions outlined in red boxes	Google and Sonos
Exhibit 5 (January 13, 2023 Rebuttal Expert Report of Dan Schonfeld, Ph.D.)	Portions outlined in red boxes	Google
Exhibit 11 (November 30, 2022 Opening Expert Report of Samrat Bhattacharjee Regarding Invalidity of U.S. Patent Nos. 10,779,033 and 9,967,615 and Other Issues)	Portions outlined in red boxes	Google
Exhibit 12 (January 23, 2023 Reply Expert Report of Samrat Bhattacharjee Regarding Non-Infringement of U.S. Patent No. 10,779,033 and Other Issues)	Portions outlined in red boxes	Google
Exhibit 14 (January 13, 2023 Rebuttal Expert Report of Douglas C. Schmidt)	Entire document	Google
Exhibit 17 (Transcript from the January 6, 2023 Deposition of Janos Levai)	Entire document	Google
Exhibit 18 (Document bearing starting bates number GOOG-SONOSNDCA-00075593)	Entire document	Google
Exhibit 19 (Transcript from the February 2, 2023 Deposition of Douglas Schmidt)	Portions outlined in red boxes	Google
Exhibit 21 (January 13, 2023 Rebuttal Expert Report of Samrat Bhattacharjee Regarding Non-Infringement of U.S. Patent No. 10,779,033 and Other Issues)	Portions outlined in red boxes	Google
Exhibit 22 (Document bearing starting bates number GOOG-SONOSWDTX-00041617)	Entire document	Google

II. LEGAL STANDARD

Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal must file an administrative motion that articulates the applicable legal standard and reasons for keeping a document under seal, includes evidentiary support from a declaration where necessary, and provides a proposed order that is narrowly tailored to seal only the sealable material.

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.” *Id.* (quoting *Foltz v. State Farm Mutual Auto. Insurance Company*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

The Ninth Circuit has recognized that two different standards may apply to a request to seal a document – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). The compelling reasons standard applies to any sealing request made in connection with a motion that is “more than tangentially related to the merits of a case.” *Id.* Accordingly, courts in this district apply a “compelling reasons” standard to a sealing request made in connection with a motion for summary judgment. *See, e.g., Edwards Lifesciences Corp. v. Meril Life Scis. Pvt. Ltd.*, No. 19-CV-06593-HSG, 2021 WL 5233129, at *4 (N.D. Cal. Nov. 10, 2021); *Baird v. BlackRock Institutional Tr. Co., N.A.*, No. 17-CV-01892-HSG, 2021 WL 105619, at *5 (N.D. Cal. Jan. 12, 2021).

III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION

Material that is confidential and could harm a litigant’s competitive standing if disclosed may be sealed under the compelling reasons standard. *Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, No. 12-cv-03844-JST2015 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015) (information “is appropriately sealable under the ‘compelling reasons’ standard where that information could be used to the company’s competitive disadvantage”); *In re Qualcomm Litig.*,

1 No. 3:17-CV-0108-GPC-MDD, 2017 WL 5176922, at *2 (S.D. Cal. Nov. 8, 2017) (concluding that
2 “compelling reasons exist to seal . . . information subject to confidentiality and non-disclosure
3 provisions” because “[s]uch insight could harm the parties in future negotiations with existing
4 customers, third-parties, and other entities with whom they do business”).

5 Exhibits 14, 17, 18, and 22 contain confidential information regarding highly sensitive
6 features of Google’s products. Specifically, they detail the operation and system design of Google
7 products and functionalities that Sonos accuses of infringement. Public disclosure of this
8 information would harm the competitive standing Google has earned through years of innovation
9 and careful deliberation by revealing sensitive aspects of Google’s proprietary systems, strategies,
10 designs, and practices to Google’s competitors. Declaration of Jocelyn Ma ¶ 4. A less restrictive
11 alternative than sealing these exhibits would not be sufficient because the information sought to be
12 sealed is Google’s proprietary and confidential business information but is integral to Google’s
13 Motion. *Id.* Thus, Google has compelling reasons to keep such information under seal. *See Delphix*
14 *Corp. v. Actifo, Inc.*, No. 13-cv-04613-BLF, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20, 2014)
15 (finding compelling reasons to seal where court filings contained “highly sensitive information
16 regarding [an entity’s confidential] product architecture and development”); *Guzik Tech.*
17 *Enterprises, Inc. v. W. Digital Corp.*, No. 5:11-CV-03786-PSG, 2013 WL 6199629, at *4 (N.D. Cal.
18 Nov. 27, 2013) (sealing exhibit containing “significant references to and discussion regarding the
19 technical features” of a litigant’s products).

20 The portions highlighted in yellow and outlined in red boxes in Google’s Motion and
21 Exhibits 1, 2, 5, 11, 12, 19, and 21 also contain confidential information regarding highly sensitive
22 features of Google’s products. Specifically, they detail the operation and system design of Google
23 products and functionalities that Sonos accuses of infringement. Public disclosure of this
24 information would harm the competitive standing Google has earned through years of innovation
25 and careful deliberation by revealing sensitive aspects of Google’s proprietary systems, strategies,
26 designs, and practices to Google’s competitors. Declaration of Jocelyn Ma ¶ 5. A less restrictive
27 alternative than sealing these exhibits would not be sufficient because the information sought to be
28 sealed is Google’s proprietary and confidential business information but is integral to Google’s

1 Motion. *Id.* Thus, Google has compelling reasons to keep such information under seal. *See Delphix*
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 6 Nov. 27, 2013) (sealing exhibit containing “significant references to and discussion regarding the
 7 technical features” of a litigant’s products).

8 **IV. CONCLUSION**

9 For the foregoing reasons, Google respectfully requests that the Court grant Google’s
 10 Administrative Motion to File Portions of its Motion for Summary Judgment Under Seal.

11 DATED: February 6, 2023

QUINN EMANUEL URQUHART & SULLIVAN,
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ATTESTATION

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on February 6, 2023, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

DATED: February 6, 2023

By: /s/ Charles K. Verhoeven
Charles K. Verhoeven